



JOHN A. WAGNER
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



ARNOLD SCHWARZENEGGER
GOVERNOR

May 11, 2009

Ms. Miranda Lynch
Division of Policy, Children's Bureau
Administration for Children and Families
1250 Maryland Avenue, SW., 8th Floor
Washington, D.C. 20024

Dear Ms. Lynch:

**SUBJECT: REQUEST FOR PUBLIC COMMENT CONCERNING REQUIREMENTS FOR
TRANSFERRING CHILDREN FROM THE PLACEMENT AND CARE
RESPONSIBILITY OF A STATE TITLE IV-E AGENCY TO A TRIBAL
TITLE IV-E AGENCY AND TRIBAL SHARE OF TITLE IV-E ADMINISTRATION
AND TRAINING EXPENDITURES**

On behalf of the State of California, the California Department of Social Services offers the following comments with respect to the implementation of Public Law 110-351 and the option for Indian Tribes to operate a foster care, adoption assistance, and a kinship guardianship assistance program under Title IV-E of the Social Security Act (Act).

1. California is a Public Law 83-280 (18 U.S.C. Section 1162, et seq.) state and therefore has concurrent jurisdiction with federally recognized tribes over child custody proceedings for Indian children. Once the state (or a county in the case of a county operated system like California) has acted to place a child into protective custody, that responsibility is retained unless the case is formally transferred to the Tribe. This relationship should be addressed by the Administration for Children and Families as it pertains to the specification of responsibilities of the state once a tribal entity enters into an agreement with the federal government and implements a Title IV-E program.
2. In California, we have over 100 federally recognized Tribes, as well as Tribal consortiums and Tribal organizations that already provide service and advocacy for Indian children in varying degrees. We are aware of significant interest by these Tribal entities in direct Title IV-E funding agreements. It is anticipated that there could be multiple entities with concurrent responsibilities over the same population of children in the same geographical area. Regulations should provide guidance and criteria on how a service area will be determined for directly-funded Tribes, consortiums or Tribal organizations operating a Title IV-E program. The criteria may be distinct depending on whether it is a Tribe versus a consortium or Tribal organization. Is it appropriate to

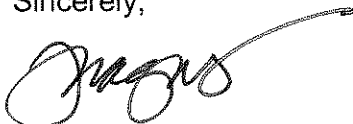
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consider providing a mechanism for resolution of conflicts over responsibilities by multiple entities that could all have authority to act with respect to the same children?

3. To the extent that states are expected to provide support to directly-funded Tribal programs, we would expect specification of the responsibilities, with associated cost reimbursement or funding methodologies. Will states have a share of cost for Title IV-E payments to children under the care of directly-funded Tribal programs? If yes, what methodology will be used to determine the state share? Will the states be involved in allocation discussions in order to determine cost sharing responsibilities to assure children are receiving full benefits?
4. It is our understanding that a Tribal entity entering into a direct agreement will be responsible for providing the full spectrum of child welfare services required of a Title IV-E program. This should be made clear in regulation.
5. Title IV-B, subpart 1, of the Act requires a Title IV-E agency to operate an information system that can readily determine the status, demographic characteristics, location, and goals for the placement of every child who is, or within the preceding 12 months was in foster care (Section 422(b)(8)(A) of the Act). How will Tribal entities entering into agreements be affected by this provision? Developing an automated child welfare information system that meets federal standards will require a huge investment of time and resources. Will regulations provide alternatives for Tribal entities?
6. It is anticipated that there will be a need for information sharing about specific cases as children are transferred between state and Tribal systems. For example, existing case information regarding Medicaid benefits and criminal history will possibly need to follow the child. Will states be required and/or expected to offer access to statewide systems containing such information to Tribal entities unable or unwilling to develop their own? Would state Title IV-B and Title IV-E plans need to be amended to include information sharing agreements with Tribal entities? How will confidentiality issues be addressed?

Thank you for the opportunity to comment upon the implementation of Public Law 110-351 and the implementation of Tribal Title IV-E programs. If we can be of any further assistance, please feel free to call me at (916) 657-2598 or Gregory E. Rose, Deputy Director, Children and Family Services Division, at (916) 657-2614.

Sincerely,



JOHN A. WAGNER
Director